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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/804,984	03/18/2004	Marcia R. Meyer	026.0006	8929
29906	7590	11/16/2007		
INGRASSIA FISHER & LORENZ, P.C. 7150 E. CAMELBACK, STE. 325 SCOTTSDALE, AZ 85251			EXAMINER FERNSTROM, KURT	
			ART UNIT	PAPER NUMBER
			3711	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/804,984	Applicant(s) MEYER ET AL.	
	Examiner Kurt Fernstrom	Art Unit 3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>3/18/04</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4, 12, 13, 16-18, 20 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Craig. Craig discloses in the Figures and specification a device for viewing a plurality of design components comprising a first plurality of samples 14 and a second plurality of samples 15 and a binding mechanism 7 which binds the first and second plurality of samples such that they can be moved about the binding mechanism. With respect to claim 4, Craig discloses that the design components comprise colors and patterns. With respect to claim 12, Craig discloses a ring binding. With respect to claim 13, the step of selecting a pattern is inherent in the use of the device of Craig. With respect to claims 18 and 21, Craig discloses a third plurality of design components 13 which is adjacent to the first and second pluralities of design components and viewable therewith. With respect to claim 20, the design components of Craig are inherently based on a decorating style.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 7, 27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Craig in view of Feldman-Schorrig. Craig discloses all of the claim limitations with the exception of a single binding mechanism which attaches a plurality of design components such that they are adjacent, and rotate about a single axis. However, this feature is known, as disclosed for example in Figure 1 of Feldman-Schorrig. It would have been obvious to one of ordinary skill in the relevant art to modify the teachings of Craig by a single binding mechanism which attaches a plurality of design components such that they are adjacent, and rotate about a single axis for the purpose of allowing a user to more easily select desired design components.

Claims 3 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Craig in view of Feldman-Schorrig, and further in view of Rutovsky. Craig as viewed in combination with Feldman-Schorrig discloses all of the claims limitations with the exception of a fourth plurality of design component samples. However, it is known to provide an apparatus with at least four design samples to be displayed together in various combinations, as disclosed for example by Rutovsky. It would have been obvious to one of ordinary skill in the relevant art to modify the teachings of Craig as viewed in combination with Feldman-Schorrig by providing a fourth plurality of design components for the purpose of allowing a user to compare a greater number of samples for a desired combination.

Claims 5, 6, 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Craig in view of Sherman. Craig discloses all of the claim limitations with the exception of certain of the arrays comprising the same design component samples. However, Sherman discloses in Figures 1 and 2 and in column 2, lines 15-45 a design component guide comprising two arrays of design component samples, where the two arrays comprise the same design component samples. It would have been obvious to one of ordinary skill in the relevant art to modify the teachings of Craig by providing certain arrays with the same design component samples for the purpose of allowing a user to match identical design component samples as desired. With respect to claims 6 and 23, varying the sequence of design components is considered to be an obvious variation on the teachings of the prior art.

Claims 8, 9, 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Craig in view of Feldman-Schorrig, and further in view of Sherman. Craig as viewed in combination with Feldman-Schorrig discloses all of the claim limitations with the exception of certain of the arrays comprising the same design component samples. However, Sherman discloses in Figures 1 and 2 and in column 2, lines 15-45 a design component guide comprising two arrays of design component samples, where the two arrays comprise the same design component samples. It would have been obvious to one of ordinary skill in the relevant art to modify the teachings of Craig as viewed in combination with Feldman-Schorrig by providing certain arrays with the same design component samples for the purpose of allowing a user to match identical design component samples as desired. With respect to claims 9 and

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30, varying the sequence of design components is considered to be an obvious variation on the teachings of the prior art.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Craig in view of Feldman-Schorrig and Rutovsky, and further in view of Sherman. Craig as viewed in combination with Feldman-Schorrig and Rutovsky discloses all of the claim limitations with the exception of certain of the arrays comprising the same design component samples. However, Sherman discloses in Figures 1 and 2 and in column 2, lines 15-45 a design component guide comprising two arrays of design component samples, where the two arrays comprise the same design component samples. It would have been obvious to one of ordinary skill in the relevant art to modify the teachings of Craig as viewed in combination with Feldman-Schorrig and Rutovsky by providing certain arrays with the same design component samples for the purpose of allowing a user to match identical design component samples as desired.

Claims 14, 15 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Craig. Craig discloses all of the limitations of claim 14 with the exception of a provision of a plurality of design component collections. However, this limitation amounts to a multiplication of the same part which would have been obvious for the purpose of providing a customer with a greater variety of potential combinations. With respect to claim 15, Official Notice is taken that it is well known to obtain preferences from a customer by asking questions directed to determining style preferences in methods relating to design selection. With respect to claim 26, spiral binding is considered to be an obvious variation on the ring binding of Craig.

Claims 19 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Craig in view of Rutovsky. Craig discloses all of the claims limitations with the exception of a fourth plurality of design component samples. However, it is known to provide an apparatus with at least four design samples to be displayed together in various combinations, as disclosed for example by Rutovsky. It would have been obvious to one of ordinary skill in the relevant art to modify the teachings of Craig by providing a fourth plurality of design components for the purpose of allowing a user to compare a greater number of samples for a desired combination.

Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Craig in view of Rutovsky, and further in view of Sherman. Craig as viewed in combination with Rutovsky discloses all of the claims limitations with the exception of certain of the arrays comprising the same design component samples. However, Sherman discloses in Figures 1 and 2 and in column 2, lines 15-45 a method of providing a design components guide comprising two arrays of design component samples, where the two arrays comprise the same design component samples. It would have been obvious to one of ordinary skill in the relevant art to modify the teachings of Craig as viewed in combination with Rutovsky by providing arrays comprising the same design component samples for the purpose of allowing a user to match identical design component samples as desired.

Claims 31 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Craig in view of Feldman-Schorrig and Sherman, and further in view of Rutovsky. Craig as viewed in combination with Feldman-Schorrig and Sherman discloses all of the

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claims limitations with the exception of a fourth plurality of design component samples. However, it is known to provide an apparatus with at least four design samples to be displayed together in various combinations, as disclosed for example by Rutovsky. It would have been obvious to one of ordinary skill in the relevant art to modify the teachings of Craig as viewed in combination with Feldman-Schorrig and Sherman by providing a fourth plurality of design components for the purpose of allowing a user to compare a greater number of samples for a desired combination. With respect to claim 32, the feature of certain of the pluralities of design component samples being the same is obvious in light of the teachings of Sherman.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Sesti, Lodwick, Cowie, Jenter, Criger, Hitchcock, Brown, Barrett and Howard disclose various design selection devices and methods.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kurt Fernstrom whose telephone number is (571) 272-4422. The examiner can normally be reached on M-F 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Kim can be reached on 571 272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KF
November 7, 2007



**KURT FERNSTROM
PRIMARY EXAMINER**